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# ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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**Mission to Turkey
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**Executive summary**

The Special Rapporteur undertook her mission to Turkey at a time of change, which made it difficult to organize and carry out. Nevertheless, the possibility of contributing to the full integration of human rights in the ongoing law and economic reform made her mission worthwhile.

Rather than assessing the fate of the right to education in the past, the mission was forward-looking. It took place from 3 to 10 February 2002, in a particularly eventful week. The evolving legislative changes focused on the finalization of the short-term programme aimed at Turkey's membership in the European Union. Broadening and deepening human rights safeguards is the key objective of that programme and the programme to follow. Hence, the Special Rapporteur has prioritized those issues where constitutional and legal safeguards necessitate adjustment to international human rights requirements. At the same time, international support for Turkey's strategy for coping with economic crisis has created possibilities for conceptualizing post-crisis development, thus opening the way for the mainstreaming of human rights. A comprehensive rights-based strategy for education would elevate the priority for education in budgetary allocation and enhance regulatory and institutional coherence as human rights obligations pertain to all parts of the Government.

To the extent permitted by the constraints of the brevity of the Special Rapporteur's mission and her consequent inability to schedule meetings outside Ankara, her visit included meetings with government officials and representatives of international organizations, teachers and students, human rights educators and human rights organizations. Her analysis encompassed domestic and international actors, as well as the legal and extra-legal framework for education. In accordance with her mandate, the focus was on the elimination of obstacles and difficulties for the full realization of the right to education.

The Special Rapporteur has applied her 4-A scheme as analytical framework and this report summarizes her key findings and recommendations relating to the Government's human rights obligations to make education available, accessible, acceptable and adaptable.

The key to making education available is the financial and human resources devoted to it. The recent prolongation of compulsory education from five to eight years, as well as Turkey's young population, requires increasing the budgetary allocations for education much more than has been done thus far. The Special Rapporteur recommends that it be increased to 6 per cent of GNP, as recommended by UNESCO. This would make many needed improvements possible and enhance the quality of education. The necessity of rapidly increasing the number of teachers calls, in the Special Rapporteur's view, for a long-term strategy to enhance the status of teachers. Full recognition of their trade union freedoms and institutionalization of teachers' participation in decision-making could significantly enhance the quality of teaching and learning.

The Special Rapporteur deems that the principle of non-discrimination should constitute the pillar of education, human rights and development. The existing prohibitions on discrimination are merely the first step. A comprehensive strategy for the elimination of discrimination is necessary and the Special Rapporteur recommends that priority be accorded to

gender. Moreover, the existing statistics do not reveal the nature and extent of discrimination on all prohibited grounds, such as ethnic origin, religion or language. Thus, creating rights-based statistics is necessary for ensuring the exercise of the right to education without any discrimination.

Lacking human rights safeguards for the acceptability of education were brought to the Special Rapporteur's attention throughout her mission. Headscarves have become a symbol of the underlying controversy regarding secularism and freedom of religion, but the discriminatory impact of exclusion from education on girls and women wearing headscarves is not being addressed. Language engenders even more controversy, also overshadowing its human rights dimensions. Mother-tongue education is in the best interest of non-Turkish-speaking children so as to enable them to exercise their right to education in the education system, whose language of instruction is Turkish. Decision-making on the teaching and learning of foreign languages, has been, in the case of Kurdish, dwarfed by national-security concerns. Introducing the human rights approach would, in the Special Rapporteur's view, facilitate solving underlying problems.

The connections between in-school and out-of-school education reveal the need gradually to integrate human rights into the aims and purposes of education, which were defined in the 1920s. The necessity of adapting education to the exercise of all human rights and fundamental freedoms is also exemplified by the paradox of child labour alongside graduate unemployment. The Special Rapporteur deems that a participatory process of defining a long-term vision of education could trigger a change from looking back to looking forward, into the future. This would also constitute an opportunity for facilitating the necessary human rights adjustments through Turkey broadening its commitment to international human rights law by ratifying all international human rights treaties, lifting reservations, and making international human rights law directly applicable.

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## Introduction

1. The Special Rapporteur carried out her mission to Turkey at a time of ongoing and rapid transition: one facet consisted of legal reform triggered by Turkey's prospective membership in the European Union; another concentrated on coping with a profound economic crisis. Thus, her visit to Turkey was difficult to organize and carry out. As her mandate is orientated towards the elimination of obstacles and difficulties for the full enjoyment of the right to education, foresight is preferable to hindsight. Her aim was to analyse the process of change so as to generate recommendations regarding full integration of human rights in legislative reforms, as well as in economic and fiscal policies. This report strives to capture key issues that the Special Rapporteur examined and recommendations are included throughout. Country missions and reports based on them do not constitute self-contained activities but the beginning of a process. She is therefore looking forward to continuing dialogue with the Government of Turkey and the many interlocutors she talked to during her mission, and to contributing to the elimination of obstacles to the full enjoyment of the right to education in the follow-up to her mission.

2. Following the request by the Special Rapporteur of 21 September 2001 to carry out a mission to Turkey in 2001, the Government invited her to visit the country but requested the postponement of her mission to 2002. The Special Rapporteur was particularly keen on visiting Turkey during the ongoing law and economic reform programmes that are particularly relevant for education. Her visit to Turkey, from 3 to 10 February 2002, took place in a particularly eventful week. The finalization of the short-term programme for Turkey's membership in the European Union, from March 2001 to March 2002, centred on legislative changes. Human rights safeguards formed the pillar of that programme and the same is anticipated for the coming year. At the same time, international support for Turkey's strategy for coping with economic crisis has intensified. A great deal of publicity followed the approval of a $16 billion stand-by loan by the International Monetary Fund (IMF) on 4 February 2002.[1] Much as in other countries, there is a schism between the worlds of economics, education and human rights. The mainstreaming of human rights therefore constitutes the Special Rapporteur's key recommendation.

3. To the extent permitted by the constraints of the brevity of her mission and her consequent inability to schedule meetings outside Ankara, her visit included meetings with government officials and representatives of international organizations. She met with teachers and students, human rights and child-rights educators and visited human rights organizations. The official part of her programme was finalized during the visit. It included all the meetings that the Special Rapporteur had requested, with two exceptions that are noted in this report. The Office of the High Commissioner for Human Rights (OHCHR) organized the visit and a staff member of the OHCHR accompanied the Special Rapporteur. The support of the United Nations Development Programme (UNDP) facilitated solving all the problems that such a mission inevitably faces. She acknowledges with gratitude the friendly, generous and efficient help of UNDP and the United Nations Information Centre (UNIC).

4. Country missions are aimed at enabling the Special Rapporteur to collect first-hand information from a wide range of actors in order to assess the state of progressive realization of the right to education with a view to formulate recommendations for the elimination of obstacles

and difficulties. Their timing is crucial for their usefulness. The Special Rapporteur therefore scheduled her mission early in the process of change so as to facilitate human rights mainstreaming during its continuation. Her mandate enables bringing together international and domestic, legal and extra-legal perspectives, and analysing them within the human rights framework. Experience in promoting the full realization of the right to education has shown, worldwide, that the human rights impact of fiscal allocations ought to be discussed alongside education law, that eliminating discrimination in practice necessitates rights-based statistics alongside law and corollary development strategy.

5. There was a wide disparity of views on every issue that the Special Rapporteur examined during her mission. According to some domestic actors, the realization of the right to education was progressing; others held that it was regressing. Changes in human rights safeguards, both education-specific and general, were deemed by some to be profound and far-reaching, by others to be merely cosmetic. There were also differences between the expectations and priorities of various international and foreign actors. Some have prioritized Turkey's active involvement in the international war against terrorism, emphasizing its status of geopolitical pivot and its membership in the North Atlantic Treaty Organization (NATO). Others have focused on the servicing of foreign and domestic debt. Yet others have prioritized elimination of gender discrimination or, generally, improvement in the enjoyment of human rights.

6. To the extent permitted by the United Nations rules concerning the length of reports, the Special Rapporteur has endeavoured to reflect the nature and scope of different - sometimes even contradictory - perspectives. Many varied approaches and lines of argument that permeate different political and public debates are not reflected herein. Rather, this report highlights the human rights dimensions which are often absent from such debates. The integration of human rights would facilitate a move from problem identification to problem solving. The universality of human rights provides approaches and solutions that have been field-tested worldwide.

7. The Special Rapporteur has applied her 4-A scheme[2] as analytical framework. After a brief review of the context in which bridges between the past and future are being built, this report summarizes her key findings and recommendations relating to the Government's human rights obligations to make education available, accessible, acceptable and adaptable.

## I. THE CONTEXT

8. The Turkish word that the Special Rapporteur could not help learning during her mission was *kriz* (crisis). Turkey is indeed undergoing a deep and multifaceted crisis. All facets of this crisis are reflected in education. Vision, persistence and considerable investment in education will be needed to enable education to respond to the existing problems and to help solve them.

9. Turkey's GNP declined by an estimated 8.5 per cent in 2001 and the Government acknowledged that the country was undergoing a deep economic recession.[3] Kemal Dervish, the Minister for the Economy, noted on 4 February 2002 that Turkey was overcoming its worst recession since 1945, but effects on unemployment and impoverishment could be expected only when economic growth rose to 6 or 7 per cent.[4] As in similar situations, the economic crisis has

been coupled by increasing intolerance of corruption and diminishing popular support for coping strategies that have not, as yet, halted the worsening economic conditions affecting the majority of the population. Claims have been made that unemployment has reached 7 million people, out of whom 2 million lost their jobs in 2001 alone.[5]

10. Coping with the economic crisis has created a considerable challenge for the Government. After nine changes of government in as many years, the current three-party coalition has continued for more than two years. Following the elections in April 1999, a three-party coalition was formed by the Democratic Left Party (DSP), the Nationalist Movement Party (MHP), and the Motherland Party (ANAP). While there was no apparent disagreement regarding economic policy during the Special Rapporteur's visit, law reform focusing on redefining criminal offences revealed diverse views. These illustrated the tension between change and continuity.

11. Indeed, many unrelated events highlighted diverse facets of education that stemmed from the heritage of the past seven decades. The sixty-fifth anniversary of secularism as the constitutional principle prompted the President, Ahmet Necdet Sezer, to point out that "without secularism, democracy and freedom cannot exist".[6] Another pillar of Turkey's system of education, its centralized structure, was left unaltered for the moment because of disagreements regarding the transfer of responsibilities from the central to the local authorities.[7]

12. In 1997 compulsory education was prolonged from five to eight years. In its National Programme for the Adoption of the *Acquis* (NPAA), Turkey anticipated increasing compulsory education to the European Union average of 9 to 12 years.[8] The eighth Five-year Development Plan posited lengthening compulsory education to 12 years by 2005.[9] The required long-term commitment, involving a significant increase of financial and human resources, is a huge challenge for the Government. Moreover, the interrelationship between governmental obligations relating to the provision of education and those pertaining to human rights safeguards, such as freedom *of* education and freedom *in* education, necessitate a linkage between economics, education and human rights. The historical heritage provides the background for programming reforms so that both "hardware" and "software" of education can be adjusted to the new millennium.

### A. The heritage of the past seven decades

13. As in many other countries, education in Turkey was initially religious. Secular education was introduced during the Ottoman empire in 1839. The predecessor of today's Ministry of Education was established in 1847, the first training centre for civil servants in 1859 and the first university in 1863. The 1876 Constitution mandated compulsory primary education for all. The seeds of an all-encompassing free secular education and a matching administrative infrastructure had been sown. Schools with French as the language of instruction, or those where Muslim and Christian pupils were educated together, demonstrated innovative features of that time.

14. The establishment of the Turkish Republic was followed by the unification of education, making all schools subordinate to the Ministry of National Education.[10] Education was made compulsory for both sexes. Nation-building was translated into unilingualism, patriotism and

nationalism in education. Forging a new identity was hastened by the 1927 language law, with a shift to Turkish as the language of instruction. The introduction of the Latin alphabet represented a break away from the Ottoman-Islamic heritage, embodied in the Arabic and Persian languages. Cherishing "the esteem of the glorious Turkish history" and honouring "the great Turks whose services have made the great Turkish nation" became part of the curriculum.[11] The recent introduction of human rights education has created the need to examine the orientation and contents of the curricula and textbooks, and the methods of instruction, in order to integrate human rights rather than keeping separate human rights courses as an add-on.

15. The absence of a long-term strategy for education raises concerns amongst teachers and educationists. The Special Rapporteur recommends that such a strategy be initiated as soon as possible so as to encompass sectoral and cross-sectoral issues, such as family planning education, migration or child labour. Family planning and education for HIV/AIDS prevention pertain to both the Ministry of Education and the Ministry of Health. After meeting with representatives of both, however, the Special Rapporteur could not discern what family planning and HIV-prevention education may be provided to schoolchildren. Regarding non-citizens, access to education is apparently provided for school-aged children who possess legal residence. Administrative instructions originating from the Ministries of Education and the Interior may vary and prevent students from obtaining diplomas, or completing their studies if residence permits are at odds with the school year.[12] Concerning child labour, four different parts of the Government share the institutional authority. As a result, "the control of child labour is very disorganized".[13]

16. The indivisibility of human rights necessitates examining the linkage between education and work, especially for those whose formal education ends with compulsory schooling.[14] A minuscule percentage of the children who start at the bottom of the education pyramid make it to the top. For example, Douglas Frantz has cited an unnamed source from the Government positing that only one child in five attends school beyond the age of 14.[15] A common estimate is that only 10 per cent of applicants secure a place at university, testifying to the competitiveness within the education system. The increasing cost of education is likely to reinforce the need for a comprehensive, rights-based strategy for education. The European Union has prioritized increasing investment in education[16] and the broad range of human rights issues that are being considered may well constitute an incentive for creating such a rights-based strategy.

### B. Anticipated admission to the European Union as the catalyst for change

17. Turkey has been a member of the Council of Europe since 1949 and of NATO since 1952. An association agreement with the European Communities followed in 1963, as did Turkey's first application for membership, rejected in 1989. This rejection was remedied in December 1999, when the Helsinki Summit elevated Turkey to a formally recognized applicant for membership in the European Union. The Accession Partnership with Turkey was adopted in March 2001, laying down "the roadmap for Turkey to comply with the criteria for accession".[17] This was followed by Turkey's National Programme for the Adoption of the *Acquis* (NPAA) in March 2001, and by the 2001 Regular Report on Turkey's Progress towards Accession in November 2001.

18. The three stages in Turkey's constitutional change - in 1983, 1995 and 2001 - were associated with negotiations with the European Union. A wide range of human rights issues has been raised in European Union relations with Turkey in the past decades: the lack of safeguards against torture, an open-ended definition of terrorism encompassing publication of texts critical of the Government's human rights policy, the denial of minority rights to Kurds, or the military occupation of northern Cyprus (the Turkish Republic of Northern Cyprus (TRNC) is recognized by Turkey alone), which has been dealt with by the European Commission and Court of Human Rights as of 1975.[18]

19. Efforts to introduce human rights conditions into the European Union's relations with Turkey first came to public attention in 1981-1982, in the aftermath of the 1980 military coup.[19] The 1982 Constitution, adopted during the military rule, was altered in 1995 and again in 2001. In 1995-1996, the European Parliament made human rights in Turkey its most widely publicized agenda item, first refusing and then granting assent to the customs treaty with Turkey. Just after the customs treaty was approved, 10 contributors to a book published by the Human Rights Foundation of Turkey under the title *We Protect Human Rights with Imperfect Constitution and Laws* were indicted for a criminal offence of insulting the "laws of the Republic of Turkey".[20]

20. In 2001, the 523-page National Programme anticipated almost 200 pieces of legislation to be adopted or amended.[21] That Programme did not refer to a number of key issues that the European Union had been raising, such as the civilian control over the military, or cultural rights (especially mother-tongue education), or freedom of religion for Muslim and non-Muslim communities.[22] On 3 October 2001, on the eve of the European Union's annual assessment of prospects for membership of individual applicants, Turkey's Parliament (Grand National Assembly) adopted 34 constitutional amendments. The immediate aftermath of this constitutional change did not instil enthusiasm. Commissioner Gunther Verheugen agreed with the assessment of the European Parliament that "the actual human rights situation as it affects individuals in Turkey has not improved".[23]

21. At the time of the Special Rapporteur's mission, the legislative changes planned to be finished by March 2002, nicknamed "the mini-democracy package", were the focus of public attention. These aimed at translating the constitutional amendments of October 2001 into legislation. The outcome may have been unsatisfactory for all concerned.[24] The effects and impact will be seen later, through judicial interpretations of legislative changes. Altered descriptors of criminal offences against national security[25] may be guided by the specific formulations in the law or by the thrust of the Constitution, which prioritizes "Turkish national interests". At the time of these legislative amendments, there was a great deal of publicity regarding the judgements against Turkey by the European Court of Human Rights. These have illustrated the progress attained within Europe in supranational enforcement of human rights safeguards. The trend towards making international human rights directly applicable may represent an option that would reduce the time and effort needed to adapt Turkey's law to international human rights requirements.

### C. Prospects for direct application of international human rights law

22. Turkey has been selective in becoming a party to international human rights treaties. Among the human rights treaties dealing with education which entail reporting, Turkey is party to only two - the Convention on the Elimination of All Forms of Discrimination against Women as of 1986 and the Convention on the Rights of the Child (albeit with a number of reservations) as of 1995.[26] As a member of the Council of Europe, it is party to the European Convention on Human Rights, which constitutes (alongside the ILO) the sole venue for international remedies for human rights violations. Almost 200 cases against Turkey were examined in Strasbourg during the past year alone, and quite a few judgements by the European Court of Human Rights addressed human rights safeguards relating to education.

23. The Special Rapporteur met the Minister of State for Human Rights, Nejat Arseven, who provided her with a candid assessment of recent, ongoing and forthcoming law reform in the field of human rights. Legislative activity in Turkey has indeed been evolving at breakneck pace, with more than 100 new laws adopted in 2001 and a similar number is planned for 2002. The speed and the scope of law reform have created an enormous task for all involved. Implementation is much more important than design, however. The Special Rapporteur deems that direct application of international human rights treaties would dispense with the time-consuming process of amending a variety of laws, as well as ensuring the conformity of domestic and international jurisprudence.

24. An additional benefit of making international human rights treaties, starting with the European Convention on Human Rights, directly applicable would be certitude about the status of international human rights law in Turkey. Article 90 of the Turkish Constitution stipulates that ratified international treaties should take precedence over domestic legislation. Any law that is in conflict with international treaties should thus automatically become invalid. Nevertheless, human rights safeguards are defined through authoritative interpretation of the Constitution, which prevails over international treaties. The Constitution's preamble emphasizes that "no protection shall be accorded to an activity contrary to Turkish national interests".[27] Article 176 of the Constitution states that the Preamble articulates the basic constitutional principles, which form "the apex of the hierarchy of legal sources".[28] Interpretations of the nature and scope of human rights by Turkey's judiciary and the European Court of Human Rights may differ,[29] prolonging legal insecurity for the duration of court cases, which sometimes take a full decade. Ultimately, changes in Turkey's law and practice following judgements of the European Court of Human Rights would definitely settle any divergent views as to the "living law" (as different from "the law on the books"). This complicated and protracted process requires, in the Special Rapporteur's opinion, urgent attention.

## II. AVAILABILITY OF EDUCATION

### A. Budgetary allocations

25. The key to making education available is financial and human resources. The prolongation of compulsory education from five to eight years, as well as Turkey's young population, requires increasing the budgetary allocations for education much more than has been done thus far. The Special Rapporteur recommends that it be increased to 6 per cent of GNP, as recommended by UNESCO, so as to make the many needed improvements possible.

26. Indeed, Turkey's demographic structure should make education an absolute priority for the Government. More than one quarter of the population are encompassed by the formal schooling system from pre-school to secondary education.[30] Furthermore, comparative studies of educational accomplishments in the OECD countries routinely locate Turkey at the bottom, regardless of the yardstick used.[31] Elevating the priority of education in budgetary allocations seems clearly indicated, as does an overall public expenditure review.

27. Expansion and prolongation of compulsory schooling has not been supported by an adequate increase in public expenditure on education. Primary education was allocated 1.7 per cent of GNP in 1990; this allocation increased to 2.1 per cent in 1992 and diminished again to 1.4 per cent in 1997.[32] In 1990, when there were 11.7 million pupils, the Ministry of Education was allocated 13.2 per cent of the consolidated government budget. In 1999, when the number of pupils grew to 15 million, this proportion decreased to 7.85 per cent.[33] Alaaddin Dincer, on behalf of teachers' unions, highlighted on 24 October 2001 the uncertain prospects for education in the Government's budget. Although the budgetary allocation to education had increased in 2001 to 8.4 per cent, he feared a decrease to 7.4 per cent for 2002, in accordance with the Government's projections.[34] Varying figures were given to the Special Rapporteur regarding recent and ongoing changes in budgetary and extrabudgetary allocations for education, and she will closely monitor all available sources of information.

28. On 20 November 2001, Turkey sent the Letter of Intent to the International Monetary Fund (IMF) describing its commitments regarding an anticipated $3 billion under the standby arrangement from the IMF. Amongst these commitments was that of reducing "the weight of public expenditure on the real economy", which would particularly affect the civil and/or public service. Personnel costs were to be limited; recruitment kept to a minimum. Security, education and health were exempt from the replacement hiring ratio of 50 per cent, but only the military was free from the ban on new hiring.[35]

29. Turkey's military expenditure, 4 per cent of GNP and 14 per cent of the government budget,[36] considerably contributes to the "weight on the real economy". There is a noticeable, albeit seldom discussed, imbalance between military expenditure and investment in education in Turkey. The need to review military expenditure because of its high opportunity cost was singled out by the donor community in the mid-1990s, including by the International Monetary Fund and the World Bank.[37] The Special Rapporteur is concerned that this issue may have fallen into oblivion in the meantime, although its human rights dimensions have grown in importance. Key safeguards enabling public participation and accountability are freedom of information and political rights. Prioritizing human rights in allocations represents the core governmental obligation, especially with respect to economic and social rights.

30. Financing basic education was assessed in 1999 by the Government to lie beyond its means, hence an "application for a World Bank loan became essential".[38] There are many different views on the availability and destination of public funds. Different explanations for the outcomes of resource allocation are offered. No more than a sample can be cited here. A study by the Turkish Union of Chambers has alleged that $195 billion were squandered in the past decade,[39] mostly through endemic corruption. Osman Zekai Orhan of Marmara University has claimed that the Government spent 60 per cent of its revenue on servicing its domestic debt in

the past decade.[40] The Government's guarantee of all bank deposits transferred the debts of failed banks into public debt, adding an estimated $10 to 12 billion,[41] and reportedly spent 92 per cent of its tax revenue in the first half of 2001 on interest payments on its debt.[42]

31. It is in the situation of a profound crisis that the cross-sectoral nature of both education and human rights becomes clearly visible. Education cannot be isolated from macroeconomic and fiscal policies, nor can funding for education remain unaffected by other claims upon limited public funds or immune to corruption.

32. Budgetary allocations and safeguards against corruption require transparency and public participation in decision-making. The indivisibility of human rights suggests solutions: full access to information is necessary for public debate on the linkage between revenue and expenditure, priorities in budgetary allocations require transparency, and freedom to articulate different proposals and underlying arguments. Nominal allocations may become significantly reduced as they flow towards their intended beneficiaries unless there are effective safeguards against corruption.

33. Combating corruption is difficult because a newspaper article exposing corruption may lead to the journalist being indicted for "insulting the State" and facing the possibility of a lengthy prison sentence.[43] Prosecution of persons suspected of corruption may be impeded by their parliamentary immunity. If the suspect is a civil servant or public employee, permission to prosecute must be obtained from the relevant authority.[44] Safeguards are slanted and tend to shield corruption rather than protecting those whose freedom from corruption should be ensured and be seen to be ensured.

34. Much as any other area, education is not exempt from unofficial reports about the incidence and prevalence of corruption. As elsewhere, these feed speculation and foster distrust. Foreign and international aid aimed at helping the poor has been affected by corruption, including financial assistance aimed at overcoming financial obstacles to access to education for the poorest.[45]

### B. The teaching profession

35. The need for rapid hiring of additional teachers originated from the prolongation of compulsory schooling from 5 to 8 years in 1997. The Letter of Sector Policy by the Minister of Education of 26 May 1998 noted that 150,000 new teachers had to be hired over the coming three years.[46] Education International has reported that schoolchildren between the ages of 12 and 14 were put on trial in 1999 for demonstrating with a sign, "We want teachers".[47] The Government reported that it had appointed 156,476 teachers in 1997-2000,[48] and the Special Rapporteur was informed by the Ministry of Education that there was no shortage of teachers. Much more important than numbers are qualities needed for the process of teaching to enhance the parallel process of learning, such as qualifications and motivation, as well as the overall attractiveness of teaching as a profession. The Special Rapporteur is particularly concerned about the effects and impact of the rapid increase in the number of teachers in the past four years. Moreover, the full recognition of trade union freedoms and the institutionalization of teachers' participation in decision-making would significantly benefit the quality of teaching and thus also improve learning.

36. Overcoming the shortage of teachers created by the prolongation of compulsory education included short-term measures, such as pre- and in-service training. One obstacle to improving the status of teachers is low salaries, determined by rank in the civil service and affected by the generally low salaries. A teacher's monthly salary in July 2001 ranged between US$ 122 and 283 (LT 170 to LT 397 million),[49] which was in many places below the poverty line. During her mission, the Special Rapporteur was informed by the Ministry of Education that an average teacher's salary in Ankara could be about LT 500 million, while newspapers reported the poverty line as LT 935 million for a family or four.[50]

37. The unattractiveness of teaching as a profession in the light of such low salary levels has, to the Special Rapporteur's immense surprise, not yet led to discussion of a post-crisis strategy for the teaching profession. Treating teaching as a low-paid temporary alternative for jobs that graduates may aspire to but cannot obtain, or as a wife's job supplementing her husband's salary, does not provide the foundations for the quality and commitment of teachers that all Governments want for their young generations and all parents for their children. It is on such issues that the voice of teachers themselves becomes crucial to designing any self-sustaining strategy.

38. As of 1997, teachers have been permitted to form and join trade unions, but they are encompassed by restrictions upon the entire public and civil service and their right to strike and their right of collective bargaining are not recognized. The 1997 change took place after many cases had been litigated internationally, especially before the International Labour Organization (ILO). Indeed, various restrictions on trade union freedoms in Turkey were on the ILO agenda 18 times in the past 20 years. The denials of teachers' right to form trade unions and various punitive measures taken against trade union leaders led to precedent-setting decisions, but these have not yet been fully implemented by the Government of Turkey.[51] Moreover, Turkish law has not yet been fully adjusted to the international human rights requirements as teachers (and other public employees) still do not enjoy the right to strike or the right of collective bargaining. The Special Rapporteur will follow developments as part of her cooperation with the ILO and hopes that the process of adjusting Turkish law to international human rights requirements, in which new legislation of July 2001 constituted an important step, will progress further in the near future.

## III. ENSURING NON-DISCRIMINATORY ACCESS TO EDUCATION

39. The Special Rapporteur deems that the principle of non-discrimination should constitute the pillar of human rights and education laws and be integrated into development strategies. Turkey's Constitution prohibits discrimination on some grounds, but not on others. The accompanying provision impeding the bestowal of privileges on the grounds of sex or language is interpreted as if it constituted an obstacle to the elimination of discrimination. A mere prohibition of discrimination cannot remedy the historical heritage of inequality, gender being the prominent example. Perhaps, as the Special Rapporteur has suggested above, making international human rights law directly applicable could speed up and simplify the process of change. Moreover, the existing statistics do not reveal the nature and scope of discrimination on all prohibited grounds, such as race, ethnic origin, religion or language. Thus, creating rights-based statistics is needed to complement the necessary legal reform so as to ensure the exercise of the right to education without any discrimination.

### A. Prerequisites for the elimination of discrimination

40. The opening sentence of Turkey's initial report under the Convention on the Rights of the Child emphasized that Turkey is "a European, Balkan, Caucasian, Middle Eastern, Mediterranean and Black Sea State all at once".[52] This geographical position has contributed - it still does - to the diversity of Turkey's population. It was perhaps to counter this diversity that a unitary, centralized State structure was established and a homogenous citizenry envisaged. Formal equality was coupled with the non-recognition of racial, ethnic, religious or linguistic diversity. The monocultural definition of nationhood still impedes resort to terms such as *multiculturalism*.

41. There are different perceptions of *Turkishness* which inevitably influence education. One facet was reflected in the criminalization of "pointing to differences"[53] amongst people, such as differences of religion or language or ethnicity. Religion and language have created the most controversy. People can easily be bilingual and this constitutes an immense advantage for their education because bilingualism improves their ability to learn. Nobody can be bi-religious and religion can indeed constitute a divisive rather than unifying influence. International human rights law therefore lays down detailed safeguards for freedom of religion.

### B. The need to create rights-based statistics

42. The Education for All (EFA) 2000 Assessment reported a net enrolment ratio of 87.5 per cent (92.6 per cent for boys and 82.3 per cent for girls). As a consequence of the prolongation of compulsory education to eight years in 1997, enrolments decreased from the previously reported 99.8 per cent.[54] For the school year 2000-2001, the Ministry of Education reported an enrolment ratio of 97.6 per cent in primary and 59.4 per cent in secondary education.[55] These figures reflect enrolments recorded at the beginning of the school year. Data on school attendance have revealed a rate of 91.7 per cent for children aged 6-11, 80.6 per cent for those aged 12-14, and 51.0 per cent for the age group 15-17, with attendance in all age groups lower for girls.[56] There seem to be no data on completion rates. Data on school attendance and completion should, in the Special Rapporteur's view, be systematically collected and disseminated.

43. Formally reported enrolment statistics record, as everywhere, the number of children who are enrolled and are silent on those who should be in school but are not. Turkey's initial report under the Convention on the Rights of the Child acknowledged that there are "children who do not have an identity card and those who are not registered on the civil registries".[57] In 1998, 37 per cent of infants and 22 per cent of children up to 4 were not registered at birth.[58] The Common Country Assessment (CCA) has highlighted the shortcomings:

> "Precise, continuous and detailed information is necessary for the successful implementation of laws and policies, but Turkey lacks reliable information on a number of areas. To begin with, due to the current state of the birth registration system, the annual number of births is not known. There is no recording system for disabled children ..."[59]

44. The registration of all children, often called "the first right", is an indispensable prerequisite for monitoring the coverage of compulsory education. Children whose existence may not be legally and statistically confirmed tend to be deprived of their rights. Moreover, specific features of each child of particular relevance for the child's exercise of the right to education ought to be recorded. Some, such as disability, may preclude the child from access to school or from successful learning. Others, such as religion or language, may need accommodation in the best interest of the child. The Special Rapporteur has consistently held that the right to education entails adaptation to each child rather than forcing children to adapt themselves to whatever education may be provided.[60] Adaptation necessitates translating into reality the principle of non-discrimination. Thus, the first step towards the ultimate objective of eliminating discrimination requires identifying the pattern of discrimination. While the Special Rapporteur was assured by the Ministry of Education that no discrimination existed in Turkey, she is concerned that the absence of quantitative and qualitative data may indicate that the process of exposing and eliminating discrimination has yet to begin.

45. The 1982 Constitution guaranteed equality before the law without any discrimination based on "language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations". There are grounds of discrimination that are still not formally recognized - disability or ethnic origin or minority status - after the series of constitutional amendments. Regarding disability, the Constitution has stipulated that "those in need of special training" shall be rehabilitated "so as to render such people useful to society". In 1983, legislation on children with special educational needs was adopted; it was altered in 1997. Turkey's initial report under the Convention on the Rights of the Child noted that "the services are not systematic or sufficient", adding that there was no legislation, as yet, on the elimination of discrimination.[61] Children with disabilities may represent about 12 per cent of the relevant age group, but education statistics refer only to the 0.3 per cent who are attending special or mainstream schools.[62]

46. Even for those grounds of discrimination that are formally prohibited, it is impossible to discern how this is translated into practice because of the absence of quantitative and qualitative data. The Special Rapporteur thus recommends that creating rights-based statistics be accorded priority. The NPAA has acknowledged that "there is no provision within Turkish legislation specifically relating to statistics".[63] Creating rights-based statistics for education could constitute the first step towards translating the human rights commitments into indicators.

### C. Girls and women

47. Gender vividly illustrates the necessity of moving from the prohibition of discrimination towards its elimination. The Special Rapporteur heard numerous times that discrimination against girls and women was prohibited in Turkey. A mere prohibition of discrimination was often deemed to constitute full compliance with governmental human rights obligations. The prohibition on bestowing privilege upon somebody on the grounds of, inter alia, sex, is seen to preclude measures which are necessary to eliminate gender discrimination. This testifies to the need for human rights education, in the narrowest sense of this word, in order to clarify the difference between prohibition and elimination of discrimination. The lead has been provided by the United Nations Development Assistance Framework (UNDAF) 2001-2005, which has thus summarized the nature of gender discrimination:

> "Notwithstanding their legal rights, Turkish women are not able to enjoy de facto equal rights in political participation, particularly in access to decision-making positions; nor is there access to economic resources, including capital investment, at par with men, particularly in rural areas. Both economic factors and the socio-cultural structure support and perpetuate gender inequality and discrimination."[64]

48. Eliminating many facets of gender discrimination in the written and unwritten law should, in the view of the Special Rapporteur, constitute a priority. The Constitution classifies women, together with children and the disabled, as categories to be "protected by special provisions as to their working conditions". Gender bias is also reflected in Turkey's initial report under the Convention on the Rights of the Child. The reference to imprisonment (four to eight years) for mothers who kill their children born out of wedlock is accompanied by a suggestion that the penalty should be increased.[65] Children born out of wedlock cannot obtain their father's surname and have legal rights only with respect to their mother and her family. No change of such openly discriminatory laws seems imminent.

49. The minimum age for marriage was recently raised to 17 for both sexes. Effective implementation of this legislative change necessitates remedying the paucity of information on the translation of law into practice. Little information was found on the numbers of girls who married at 14 or earlier, although that had been outlawed. Fragmentary surveys showed that up to 15 per cent of children might have been born to child-mothers, varying between and within regions and even within large cities. Arranged marriages may still be widespread (67.8 per cent of marriages were arranged in 1993)[66] and the wishes of the family may continue moulding girls' lives, impeding their school attendance if they cannot obtain permission from the family.[67]

50. Virginity testing of students in nursing schools was demanded in August 2001 by the Minister of Health, Osman Durmus.[68] Sexual intercourse was apparently treated as a disciplinary offence entailing expulsion and the defence against that accusation was to submit to a virginity test.[69] Turkey's Criminal Code differentiates between cases of sexual assault depending on the virginity of the victim. "Violation of virginity" is a much more serious offence than raping a girl or a woman who was not a virgin when raped. Moreover, rape is not an offence against the victim herself but against general morality and family order.

51. Such discriminatory laws and practices highlight the necessity for prioritizing gender equality as a key cross-sectoral issue, spanning legal and economic reform, as well as public education. Turkey's adjustment to European Community law will require progress in work-related rights (such as paid maternity leave or equal social security treatment),[70] but these will benefit only a small proportion of formally employed women, leaving the vast majority with the heritage of gender discrimination, which needs to be tackled. The many facets of gender discrimination, as the Special Rapporteur has already stated, need addressing as a matter of priority.

## IV. SAFEGUARDS FOR THE ACCEPTABILITY OF EDUCATION

52. Acceptability of education raises some of the most controversial issues that were brought to the Special Rapporteur's attention during her mission. Adapting education to international human rights requirements necessitates a careful examination of the constitutional and legal framework. Some of it was laid down in the period 1924-1934,[71] by far predating international human rights law.

### A. Balancing national security and human rights considerations

53. The importance of the military is visible in Ankara. Inonu Avenue covers one whole hill, starting with the Grand National Assembly buildings and ending with Atatürk's Mausoleum; there are countless military buildings in between. The Special Rapporteur was told many times that all public opinion surveys affirmed the military as the most respected institution in the country.

54. The assumption that civilian government exercises full control over the entire military establishment is routinely taken as the bedrock of human rights safeguards. Today's Turkey has, however, inherited a highly centralized (and until recently militarized) State structure. The father of modern Turkey, Kemal Atatürk, had been a soldier, as have been the majority of his successors. Three periods of military rule, in 1960-61, 1971-73 and 1980-83, have reinforced the status of the armed forces, as did "the soft coup" in 1997.[72] The army is represented on the National Security Council,[73] whose mandate reaches deeply into education, the teaching of and in foreign languages or the length of compulsory schooling. Its views may formally be non-binding, but their influence on governmental policy and practice in education is visible.

55. An illustrative example is a 1998 case before Turkey's Constitutional Court concerning the banning of the Welfare Party (Refah Partisi). The prosecutor emphasized the opposition of Refah Partisi to a resolution of the National Security Council concerning the closure of religious secondary schools; the defence counsel opined that resolutions of the National Security Council were not binding.[74] As that resolution of the National Security Council apparently became government policy, arguments by the defence counsel did not carry weight. Refah Partisi was dissolved; religious schools were limited in number.[75]

56. The extension of compulsory education in 1997 from five to eight years, hailed for its aim of improving the level of education for all children, was also seen as reinforcement of secular at the expense of religious education. Television journalist Ferhat Boratav saw this change as having originated from the National Security Council "as a basic precaution against the Islamists", so that children would be in public secular schools until the age of 15.[76] Heinz Kramer commented that "the introduction of an uninterrupted eight-year compulsory education [aimed to] dissolve the religious junior high schools".[77]

### B. Discriminatory gender impact of headscarves-based exclusions

57. The two faces of Turkey are illustrated by the Government's commitment to secularism, on the one hand, and by the usual results of surveys that portray the vast majority of the population as Muslim,[78] on the other hand. The commitment to secularism in education brought

about a ban on the wearing of headscarves, whose breach entails denial of access to education or expulsion. Turkey's Constitutional Court found in 1998 that headscarves should not be allowed as this "might adversely affect the public security and unity of the nation because the headscarf or turban shows who belongs to which religion".[79] Hasan Celal Guzel, a former Minister of Education, was imprisoned for having objected to the exclusion of girls and women from education because of their headscarves.[80] Mass dismissals of university teachers and students for wearing or supporting the wearing of headscarves occurred in 1998 and 1999,[81] affecting up to 30,000 students and teachers.[82] Numerous recent cases were brought to the attention of the Special Rapporteur. She is concerned about the absence of the crucial part of human rights arguments in this controversy, namely the effect that the ban on headscarves has on girls and women.

58. The ILO has associated headscarf-related restrictions and expulsions with girls' and women's unequal access to education, requesting the Government of Turkey to indicate the measures it has undertaken to ensure that such restrictions do not affect the equal right to educational opportunities of Muslim women:

> "The potential discriminatory effect of the ban on headscarves takes on particular significance when viewed in the light of information supplied by the Government indicating that women's level of education is very low in Turkey (one out of every two women jobseekers has only a primary school education), as is their level of participation in the workforce."[83]

59. Inequality in educational attainment, with female illiteracy exceeding male by almost four times, has been highlighted by the ILO as the yardstick for assessing the discriminatory impact of the ban on headscarves. In 1999, labour force participation was 68.3 per cent for men and 29.7 for women, while 32 per cent of girls aged 7-13 were not enrolled in school (compared with 17 per cent of boys) in 1997.[84] Indeed, as the Special Rapporteur has emphasized many times, education is a multiplier: it enhances other rights and freedoms when effectively guaranteed, while jeopardizing them all - especially those related to employment and self-employment - when it is denied or restricted.

### C. A human rights framework for contentions surrounding language

60. A huge obstacle to discussing language from the human rights viewpoint is the automatic labels derived from particular political agendas. Thus, advocacy for mother-tongue education is inevitably ascribed to being pro-Kurdish, although more than 30 languages are spoken in Turkey. A great deal of publicity about Kurds has directed the international spotlight in that direction. There is conspicuous silence about the Roma, except, for example, when pejorative references to "nomadic gypsies" have had to be eliminated from school textbooks.[85] The mention of mother-tongue education is further seen as jeopardizing territorial integrity, which removes the subject matter from the realm of education to that of national security. Seeing multilingualism as an asset rather than a threat raises eyebrows.

### 1. Mother tongue and the best interests of the child

61. The term *Turk* refers to all citizens of Turkey[86] without distinction as to ethnic origin, race, religion, or language. Turkish is the mother tongue of the majority; others speak Kurdish, Armenian, Arabic, Greek, Roma or one of the other 30 or so languages that are estimated to be spoken in Turkey. An excerpt from a study of obstacles to the elimination of child labour in Turkish highlights inadequate knowledge of Turkish as an obstacle to children's exercise of their right to education:

> "[M]any of the children of migrants do not speak Turkish fluently, Turkish being their second language. Hence, these children are very likely to struggle to keep pace in reading and writing exercises and eventually to drag behind the class, falling out of favour with the teachers and finally dropping out of school. The children corroborated this observation when we talked about their school experiences and reasons for dropping out of school. One solution to this problem is opening pre-school classes, especially in neighbourhoods where there are migrant households whose native language is not Turkish."[87]

62. From the findings of this study, one can easily perceive the wisdom of the Convention on the Rights of the Child, which has posited mother-tongue education as the best entry for any child into the system of education, whatever the language of instruction may be. The Special Rapporteur recommends that the principle of the best interests of the child be applied. There is support for such an approach in the new principles for education, which posit that "differences between students shall be taken into account" as well as mandating, as the first priority, "learning how to learn".[88] Eliminating linguistic obstacles by providing mother-tongue education so that every child can learn how to learn in a familiar language would represent translation of these new principles for education into practice.

### 2. The teaching and learning of languages

63. There are an estimated 9 to 15 million Kurds in Turkey. The estimates vary because Kurds are not recognized, even less counted. There are restrictions on the use of their language, and giving Kurdish names to children has been banned. About half of the Kurds in Turkey live in their traditional homeland in the south-east, the other half having migrated to the industrial cities of Turkey or abroad. Representatives of the Government of Turkey have routinely attributed human rights problems to terrorism, blamed on the Kurdistan Workers' Party (PKK), thereby legitimizing the Government's response as suppression of terrorism. The spectacular capture and subsequent trial of Abdullah Ocalan raised hopes that "terrorism" would be deleted from the political and legal vocabulary, but the aftermath to 11 September seems to have revived its use, as well as fears that the term would be abused to justify denials, violations and limitations of human rights.

64. Kurds are not recognized as a minority.[89] Indeed, the use of the term "Kurdish" in the official discourse is novel. The vocabulary used to vary between "terrorism", "separatism", "eastern problem" or "south-eastern Anatolia problem", or else "south-eastern citizens" when referring to Kurds without naming them. In its concluding observations of June 2001, the Committee on the Rights of the Child expressed its concern that "the reservations made by the

State party under articles 17, 29 and 30 of the Convention in some cases, in particular in the fields of education, freedom of expression and the right to enjoy one's own culture and use one's own language, may have a negative impact on children belonging to ethnic groups which are not recognized as minorities under the Treaty of Lausanne, in particular children of Kurdish origin".[90]

65. The language of instruction was thus determined by the 1982 Constitution: "No language other than Turkish shall be taught as mother tongue to Turkish citizens at any institutions of training or education." The teaching and learning of foreign languages has in the meantime become a praiseworthy symbol of change. The Ministry of National Education reported in November 2001:

> "From the 1997-1998 academic year onwards, a weekly two-hour foreign language course has become obligatory, and a second foreign language for the fourth and the upper primary classes has been included among the selective courses."[91]

66. The exception to introducing the teaching and learning of foreign languages is Kurdish. On 8 February 2002, the Special Rapporteur met a group of university students who informed her about the ongoing suppression of attempts to introduce Kurdish as an elective foreign-language course at the university. While it was possible to study Hungarian three hours per week, petitions to the university authorities to introduce Kurdish as a foreign language were rejected. The petitions were reportedly signed by 15,000 students at 35 universities. Apparently, personal details about petitioners were forwarded by the university authorities to the law enforcement bodies, leading to arrests on the grounds of "membership in, or support for an illegal separatist organization".

67. Removal of the issue of teaching and learning foreign languages from academic decision-making to the jurisdiction of State Security Courts (which are adjudicating cases of support for illegal organizations) highlights a much deeper problem. The boundaries between national security and education are apparently fluid and issues that pertain to education can be decided on national-security grounds rather than on their educational merits. One could imagine that languages other than Kurdish would not have triggered a threat to national security, but one cannot be sure. The consequence is self-censorship so as not to risk crossing that fluid boundary, or taking a risk - as is typical for students worldwide - with the likelihood of victimization.

68. The Special Rapporteur is deeply concerned about the fate of many students and professors supportive of the introduction of Kurdish as an optional foreign-language course. She hopes that the Government will as rapidly as possible alleviate her concerns by providing her with all available information about its response to this student initiative.

## V. ADAPTING EDUCATION TO HUMAN RIGHTS REQUIREMENTS

69. To the Special Rapporteur's deep regret, her request for a meeting with the Higher Education Council was rejected. She wished to discuss the prospects for introducing human rights safeguards for academic freedom in Turkey. Human Rights Watch has highlighted education-specific human rights problems, especially the need to study "how the Higher Education Council, a creature of the 1980 military junta, restricts academic freedom".[92] Indeed,

article 130 of Turkey's Constitution affirms that universities are "under the control and supervision of the State", adding that "this shall not include the liberty to engage in activities directed against the existence and independence of the State, and against the integrity and indivisibility of the Nation and the Country". The Special Rapporteur hopes that the issue of academic freedom will form part of the follow-up to her mission to Turkey.

70. The process of changing the orientation and contents of education in accordance with human rights requirements is taking place throughout the world. Progressive realization of human rights is evidenced in revisions of educational curricula and textbooks. The historical heritage reflected therein is being reviewed using a human rights yardstick. In Turkey, the founding principles of the 1920s for education have not been examined through the human rights lens. They are reiterated as the pillar of education. Human rights courses are added to various parts of the curriculum. The Special Rapporteur was informed about a range of initiatives and projects for reviewing school textbooks.[93] It seems useful to the Special Rapporteur to carry out a survey of ongoing projects so as to avoid duplication. Moreover, different definitions of "human rights" seem to be applied. Hence, adherence to the universality of human rights and to international human rights requirements seems particularly pertinent.

### A. School curricula and textbooks

71. The 1982 Constitution laid down specific provisions on the values which education should - and should not - espouse. Its article 42 stipulates that education should be "in line with the principles and reforms of Atatürk". This thrust has not been altered. Turkey's 2000 Education for All Assessment repeated this orientation, pointing out as the key duty of the Ministry of Education that of "raising citizens loyal to Atatürk's reforms and principles and Atatürk nationalism". This begins in pre-school education, whose emphasis includes "Türkiye the motherland, Turkish nation, Atatürk".[94] In December 2000 the Ministry of Education provided the following guidance in relation to school textbooks: "In the preparation and implementation of textbooks in our education system of all grades and types and in all educational activities, Atatürk's Reforms and Principles and Atatürk Nationalism as expressed in the Constitution shall be taken as the basis. Importance is attributed to protecting, developing and teaching the authentic national morality and culture without corruption within the universal culture. ... [P]olitical and ideological provocations against Atatürk nationalism as expressed in the Constitution and participation in daily political affairs and discussions of this kind shall never be allowed."[95] It is difficult to understand what the reference to "corruption within the universal culture" could mean and what implications it could have for the universality of human rights. Banning "political and ideological provocations against Atatürk nationalism" also does not yield itself to easy comprehension; this restriction may well constrain the freedom to articulate different visions of history and the future. The Special Rapporteur has emphasized many times the need to apply the human rights approach in addressing controversies relating to the content of school textbooks.[96]

72. Turkey's geographical location is reflected in a curriculum which is formally based on nationalism and patriotism and also encompasses national security. The background is a history of troubled relations with seven of Turkey's nine immediate neighbours. History is an immensely controversial subject matter. Outside Turkey, *metz yeghern,* the genocide of at least 1 million Armenians in 1915-1916, at the end of the Ottoman Empire, was characterized as

genocide in a 1985 report to the Sub-Commission.[97] It was also subsequently declared by some Governments to have amounted to genocide.[98] In Turkey, denial prevails. It is difficult for outsiders to understand how revisiting historical events that occurred 90 years ago could be deemed a threat to national security. The Special Rapporteur was therefore pleased to hear about an initiative in the context of the Stability Pact to revisit history textbooks.[99]

### B. Out-of-school education: restrictions on public debate

73. The enumeration of fundamental rights and freedoms in the Constitution is prefaced by two sets of limitations and restrictions, both of which were amended in October 2001. There is a listing of grounds for their restriction[100] followed by the prohibition of the abuse of rights.[101] This complex constitutional scheme requires a careful examination of the interpretation and application of all these restrictions in order to determine the nature and scope of rights and freedoms that are effectively recognized. The thrust of the Constitution was thus described by Fazil Saglam:

> "The 1982 Constitution was designed fundamentally as one that gives the priority to the state vis-à-vis the individual and the public interest vis-à-vis the freedoms. ... The 1982 Constitution is one that has chosen to fulfil the quest for a strong State and a strong executive via restricting as much as practicable the safeguards for fundamental rights and freedoms."[102]

74. This has particularly affected freedom of political organizing, with political parties of diverse orientations, from Communist to *Islamist*, having been banned. Indeed, at least one political party has been banned every year since 1983, 21 altogether. The banning of all major political parties and their leaders in the aftermath of the military coup in 1980 could not have led to a well-functioning political system.

75. Moreover, there is an abyss between the number of human rights education programmes that focus on the prevention of torture and restrictions on tackling torture in Turkey. The Parliament's Human Rights Commission attempted to cast light on the prevalence and incidence of torture in Turkey. Its (former) chairperson, Sema Piskinsut, shared the fate of many human rights defenders.[103]

76. In its first annual human rights report in 1991, the Human Rights Foundation of Turkey expressed the hope that "as a result of the struggle for human rights, it might become unnecessary to report human rights violations in the future".[104] This hope has been undermined by subsequent developments. Not only has the workload of human rights organizations increased, the nature of their work has made them a frequent target of repression. The Working Group on Disappearances called upon the Government to take appropriate measures to give the human rights organization sufficient guarantees for the performance of their activities.[105]

77. The Special Rapporteur was surprised by the cleavage between the enhancement of human rights education, on the one hand, and restrictions on applied human rights education, targeted at tackling human rights problems in Turkey. She is therefore recommending that human rights education be moulded to reflect the real situation in Turkey.

78. The adoption of the law on police education on 25 April 2001 anticipated broadening human rights training, which was started, inter alia, in Ankara's police stations. The Special Rapporteur was particularly interested in the child-rights components of such training and the effects these have had on the treatment of children by the police. To her deep regret, her request to visit police stations where human rights education is provided was rejected by the Government.

79. The new vocabulary that followed the ratification of the Convention on the Rights of the Child is often applied to pre-child-rights approaches, which treat children as objects of decisions made by adults rather than subjects of rights. The novel rights of the child approach has brought to light the prevalence of methods of upbringing that rely on *disciplining*, instilling obedience through fear of physical abuse. The Special Rapporteur on torture noted that torture had a social basis as "beating and similar measures are used as a means of correction and discipline within the family, at school and during military service".[106] Similarly, corporal punishment of children in school is associated with the heritage of their being beaten outside school by their own parents or the police.

80. Regardless of its formal prohibition, corporal punishment is reportedly used in Turkish schools.[107] The scope of its use, its effects and impact on children are not known, because information is not collected. The Special Rapporteur recommends that the prevalence and incidence of corporal punishment be monitored so that effective measures for its elimination could be designed.

### C. Human rights through education

81. The necessity of adapting education to the exercise of all human rights and fundamental freedoms is exemplified by the paradox of child labour alongside graduate unemployment. Children have to work while those who have finished their schooling cannot find work because there is a mismatch between the realms of education and work. The linkage between education and work has been reinforced by moulding education strategies, internationally and domestically, towards poverty eradication.

82. The process of impoverishment has encompassed Turkey's middle class, not only the poor. Mass redundancies in the private sector and lay-offs in the public sector were estimated at 600,000 towards the end of 2001.[108] The numbers are growing. A stroll through Ankara reveals "working street children", a term which denotes one facet of the reality of child labour. Children are working on the street, selling paper tissues (or even themselves) because their families need the income that children can thus generate or because children simply have to fend for themselves. The Special Rapporteur was surprised at the number of girls she saw amongst "working street children", a phenomenon that is apparently new.

83. In the initial report of Turkey under the Convention on the Rights of Child three different minimum ages for employment were cited - 15, 13 and 12. It was also stated that "efforts are under way to deal with such discrepancies".[109] In its NPAA, Turkey has committed itself to amending its labour law in order to "strictly prohibit the employment of children under the age of 15".[110] This is also required of Turkey by its becoming a party to ILO Convention 182 on the Elimination of the Worst Forms of Child Labour in January 2001. The 1999 Child Labour

Survey pointed out that about 60 per cent of children do not work, 10 per cent work outside the home and the rest do unpaid work within their family. The two most frequently cited reasons for not going to school were the lack of interest in schooling and inability to afford it.[111]

84. Perhaps the children's lack of interest in schooling is related to their knowledge that finishing school may not lead to securing a livelihood. Paradoxically, the current economic crisis has aggravated unemployment amongst educated youth. The European Commission has noted that "unemployment is significantly higher in urban areas and among high school graduates".[112] The Government's report under the Convention on the Rights of the Child put unemployment "among the educated groups" at 27 per cent for men and 36 per cent for women in 1996.[113] The situation has reportedly worsened in the meantime, but there are no comprehensive plans to remould education in order to provide better income-generating opportunities for school-leavers. There is an abyss between formal schooling and the bulk of income-generating opportunities in micro- and family enterprises, while the vast informal sector remains a big unknown.

85. Forging a vision of long-term development could constitute a principal post-crisis step. A participatory public debate about a model of development is likely to point to right-based education as its backbone. The large proportion of children and youth in Turkey points in that direction, as does the necessity of tackling graduate unemployment. The Special Rapporteur deems that a participatory process of defining a long-term vision of education could trigger a change. The connections between in-school and out-of-school education also reveal the need gradually to integrate human rights into the aims and purposes of education. This would also constitute an opportunity for facilitating the necessary human rights adjustments through broadening Turkey's commitment to international human rights law by ratifying all international human rights treaties, lifting reservations and making international human rights law directly applicable.

## Notes

[1] "IMF's Koehler praises Turkish commitment to economic reforms", *Turkish Daily News*, 6 February 2002; "Stocks fall 4 per cent as IMF loans approved", *Turkish News*, 6 February 2002.

[2] The 4-A scheme structures governmental human rights obligations corresponding to the right to education into making education available, accessible, acceptable and adaptable (See previous reports of the Special Rapporteur: E/CN.4/1999/49, paras. 51-74; E/CN.4/2000/6, paras. 32-65; E/CN.4/2001/52, paras. 64-65; E/CN.4/2002/60, paras. 28-29).

[3] Letter of Intent of the Government of Turkey of 20 November 2001 (www.imf.org/External/NP/LOI/2001/tur/05).

[4] "Dervish: Turkey has turned corner in economic crisis", *Turkish News*, 5 February 2002.

[5] "AKP gives low grades to government", *Turkish News*, 5 February 2002.

[6] "Sezer: no freedom without secularism", *Turkish News*, 6 February 2002.

[7] "Local government reform bill divides committee", *Turkish News*, 7 February 2002.

[8] Turkish National Programme for the Adoption of the Acquis, text at europa.eu.int/comm/enlargement/turkey.

[9] Commission of the European Communities - 2001 Regular Report on Turkey's Progress towards Accession, Document SEC(2001) 1756 of 13 November 2001, p. 74.

[10] Law No. 430 of 3 March 1924 whereby education was unified and placed under the control of the Ministry of National Education was cited in Turkey's reservation to article 2 of the first Protocol to the European Convention on Human Rights.

[11] Kazamias, A. M., *Education and the Quest for Modernity in Turkey*, University of Chicago Press, 1966, p. 148.

[12] The Special Rapporteur is grateful to the Office of the United Nations High Commissioner for Refugees (UNHCR) for the extensive review of statutory and practical problems in securing access to education for non-citizens, and gladdened by the commitment and persistence of UNHCR and its NGO partners in enhancing the enjoyment of the right to education.

[13] Aksit, B. et al., *Working Street Children in Three Metropolitan Cities: A Rapid Assessment*, Investigating the Worst Forms of Child Labour, IPEC/ILO, Geneva, November 2001, p. 26.

[14] The Ministry of National Education has noted that apprenticeship training for children aged 14 to 19 encompasses 89 vocational fields. It has added that such in-depth training for one occupation (for which there may be no employment or self-employment opportunities) should be superseded by a new policy and practice (Ministry of National Education, "National education at the beginning of 2001", Ankara, December 2000, mimeographed, pp. 161 and 185).

[15] Frantz, D., "Poverty forces new methods for educating Turkish youth", 1 July 2001, text at www.tegv.org/english.

[16] The Commission of the European Communities recommended redefining budgetary priorities, especially prioritizing education, health and social services (2001 Regular Report on Turkey's Progress towards Accession, Document SEC(2001) 1756 of 13 November 2001, p. 45).

[17] Commissioner Gunther Verheugen emphasized the need for Turkey not only to adopt but also to implement far-reaching political reforms, including constitutional guarantees for the freedoms of opinion, assembly and religion, as well as for the cultural rights of all citizens. "Accession partnership with Turkey adopted", Document IP/01/332 of 8 March 2001 (europe.eu.int/comm/enlargement/turkey).

[18] The Government of Turkey objected to the first two inter-State applications, introduced by the Government of Cyprus in September 1974 and March 1975, positing that these "contained accusations of a political nature", such as references to the "invasion" and "occupation". The Government of Cyprus explained that resort to these terms was necessary "to describe the actual conditions" under which the human rights violations brought before the Commission had been committed. The Commission concluded that Turkish armed forces had entered the island of Cyprus "operating solely under the direction of the Turkish Government", thus engaging the responsibility of Turkey. (European Commission on Human Rights - *Cyprus v. Turkey*, Applications No. 6780/74 and No. 6950/75, Decision of 26 May 1975, *1975 Yearbook of the European Convention on Human Rights*, pp. 98, 106 and 120.) Subsequently, the European Court of Human Rights confirmed "the occupation of the northern part of Cyprus by Turkish troops", finding that Turkey's army "exercises effective overall control over that part of the island" and holding Turkey responsible "for the policies and actions of the 'TRNC'". (European Court of Human Rights - *Loizidou v. Turkey*, No. 40/1993/435/514, Judgement of 18 December 1996 (Merits), paras. 54 and 56.)

[19] A detailed description is provided in Tomaševski, K., *Between Sanctions and Elections. Aid Donors and their Human Rights Performance*, Pinter/Cassell, London, 1997, pp. 119-123.

[20] International Helsinki Federation for Human Rights, "Once again, Turkey prosecutes human rights defenders. Their 'crime': Criticizing Turkey's laws", Press release of 15 December 1995.

[21] The Ministry of Foreign Affairs has stated that the Programme would be revised and it was envisaged that the second Programme will be adopted in March 2002. Press statement on the 2001 regular report on Turkey's progress towards accession and the strategy paper prepared by the EU Commission, 13 November 2001, text at www.mfa.gov.tr.

[22] Commission of the European Communities - 2001 Regular Report on Turkey's Progress towards Accession, Document SEC(2001) 1756 of 13 November 2001, p. 103.

[23] Speech by Gunther Verheugen, Member of the European Commission responsible for enlargement, during the plenary debate of the European Parliament on Turkey, Strasbourg, 24 October 2001, Document SPEECH/01/487 of 25 October 2001, (europa.eu.int/comm/enlargement/turkey).

[24] "Modification seen to be short of satisfying the EU", *Turkish Daily News*, 8 February 2002.

[25] At the time of writing, the official translation of the amended provisions of the criminal and anti-terrorism legislation was not available. According to unofficial reports, the offence of "insulting the State" was left unchanged but the threatened imprisonment was reduced from six to three years. The offence of incitement to racial, ethnic or religious hatred was redefined by adding "in a manner posing threat to public order". ("Reform law sent to Sezer for final OK", *Turkish News*, 8 February 2002; "Reform package hurdle finally over", *Turkish Daily News*, 8 February 2002.)

[26] Turkey signed the Convention on the Elimination of All Forms of Racial Discrimination on 13 October 1972 and the International Covenants on Civil and Political, and Economic, Social and Cultural Rights on 15 August 2000, but ratification of these three treaties does not seem imminent.

[27] Until the Constitution was amended in 2001, the formulation was "no protection shall be accorded to thoughts and opinions contrary to Turkish national interests". References to Turkey's Constitution in this report are to the English translation of Turkey's Constitution as amended on 17 October 2001, which was kindly given to the Special Rapporteur by the Permanent Mission of Turkey to the United Nations Office in Geneva. The text of the Constitution following the amendments of 3 (or 17) October 2001 is available at www.byegm.gov.tr/constitution.

[28] Decision of Council of State of 16 June 1994 (E. 1993/61, K. 1994/327).

[29] Rulings of Turkey's Constitutional Court are binding on the legislative, executive, judicial and administrative organs, as well as on individuals and corporations. They clarify "the law in force". The European Court of Human Rights may, while examining a specific case, find part of "the law in force" incompatible with the European Convention on Human Rights. It is beyond the remit of the European Court of Human Rights generally to examine domestic legislation by the yardstick of its compatibility with the European Convention. Moreover, as it stated already in 1978 in the *Sunday Times Case*, "laws are inevitably couched in terms which, to a greater or lesser extent, are vague and whose interpretation and application are questions of practice" (para. 49). The Minister of Justice, Hikmet Sami Turk, noting the 159 pending cases against Turkey concerning torture and 18 with regard to freedom of expression, went on to say: "Turkey has considerable shortcomings as far as the implementation of the European Convention on Human Rights is concerned". ("Turk receives ECHR Judge Turmen", *Turkish News*, 6 February 2002.)

[30] 15,820,534 pupils and 543,277 teachers, representing 26.2 per cent of the population, were part of the education system in the school year 2000-2001. (Ministry of National Education - National education at the beginning of 2001, Ankara, December 2000, mimeographed, p. 107.)

[31] The indicators developed by the OECD Centre for Educational Research and Innovation have shown the public investment in education in Turkey to be the lowest amongst OECD countries (3.5 per cent compared with the OECD average of 5.7 per cent of GDP); teachers' salaries have also been the lowest, as well as the participation in education over the life cycle, especially for women (the OECD average is 16.9 years of formal education compared with only 9.5 years in Turkey). *Education at a Glance 2001. OECD Indicators*, Paris, 2001.

[32] Education for All Year 2000 Assessment: Turkey Report, Ministry of National Education, Ankara, 1999, text at www2.unesco.org/wef/countryreports/turkey.

[33] These figures are available on the web site of the Ministry of National Education (www.meb.gov.tr).

[34] Full text available at www.egitimis.org.tr.

[35] Text available at www.imf.org/external/np/loi/tur/05.

[36] *World Bank Development Report 2002/2001* and "Atatürk's long shadow: A survey of Turkey", *The Economist*, 10 June 2000.

[37] Tomaševski, K., *Between Sanctions and Elections*, Pinter/Cassell, London, 1997, pp. 7, 11, and 65.

[38] Education for All Year 2000 Assessment: Turkey Report, Ministry of National Education, Ankara, 1999, text at www2.unesco.org/wef/countryreports/turkey.

[39] Ellis, R., "Corruption is the order of the day in Turkey", *Guardian Weekly*, 7-13 July 2001.

[40] Gorvett, J., "Turkey counts the cost", *The Middle East*, February 1999, p. 42.

[41] "Turkey and the IMF: Take ten billion", *The Economist*, 9 December 2001.

[42] "Media turn up heat in Turkey", *International Herald Tribune*, 17 July 2001.

[43] Bukar Bekdil, a *Turkish Daily News* columnist, is reportedly facing imprisonment of up to six years for an article deploring corruption in the judiciary. "Turkey's constitutional changes: Great ideas, on paper", *The Economist*, 6 October 2001.

[44] Commission of the European Communities - 2001 Regular Report on Turkey's Progress towards Accession, Document SEC(2001) 1756 of 13 November 2001, pp. 17-18.

[45] In November 2001, Jon Gorvett reported the case of a 10-year old schoolgirl who had been beaten by the school principal for having complained about misappropriation of funds intended for poor students from the World Bank's Reducing Social Risk Project. That case apparently triggered similar complaints. Gorvett, J., "Girl, 10, blows whistle on head", *Times Education Supplement*, 23 November 2001.

[46] The letter was sent by Hikmet Ulugbay, then Minister of National Education, to the President of the World Bank, James Wolfenson, and forms Annex 5 to the World Bank Basic Education Loan Agreement signed by the Government of Turkey and the World Bank on 25 June 1998.

[47] Education International, *2001 Barometer on Human and Trade Union Rights in the Education Sector*, Brussels, May 2001, p. 213.

[48] Ministry of National Education, "National education at the beginning of 2001", Ankara, December 2000, mimeographed, p. 243.

[49] The Special Rapporteur is grateful to EGITIM-SEN for providing her with these figures.

[50] The results of a survey carried out by the Confederation of Turkish Labour Unions (Turk-Is) revealed the fate of poor wage-earners in urban areas by highlighting the minimum cost of food as LT 307 million for a family of four, noting that the poor resorted to buying cheap alternatives - eggs with broken shells, or bones instead of meat. ("Minimum wage earners find a way", *Turkish News*, 5 February 2002.)

[51] Teachers' trade unions have won two important victories before the ILO. In *EGIT-SEN v. Turkey* (case No. 1577, Report No. 279), the Committee on Freedom of Association affirmed that teachers, whether employed in the private or public sector, should enjoy trade union freedoms. In a similar case, *EGIT-IS v. Turkey* (case No. 1583, Report No. 281), the Committee reinforced its call upon the Government of Turkey to modify its laws and regulations so as to bring them into conformity with the principle of freedom of association. With regard to the right to strike, the CEACR repeated in its 2001 Report its well-established interpretation that restrictions on the right to strike are permissible only in respect of essential services (which do not include teaching), public servants exercising authority in the name of the State, and in cases of acute national crises.

[52] Committee on the Rights of the Child, Initial report of Turkey (CRC/C/51/Add.4) of 8 August 2000, para. 1.

[53] The former public prosecutor, Vural Savas, often used the term "pointing to differences" in prosecutions relating to the banning of headscarves in educational institutions or advocacy for languages of instruction other than the official one, Turkish. Such a view - that differences are likely to lead to hatred - has impeded accommodation of diversity.

[54] Education for All Year 2000 Assessment: Turkey Report, Ministry of National Education, Ankara, 1999, text at www2.unesco.org/wef/countryreports/turkey.

[55] Ministry of National Education, National Education at the Beginning of 2001, Ankara, December 2000, p. 107.

[56] *Child Labour in Turkey 1999*, State Institute of Statistics/ILO, Ankara, December 2001, p. 37.

[57] Committee on the Rights of the Child, Initial report of Turkey, (CRC/C/51/Add.4) of 8 August 2000, para. 199.

[58] *Turkey Demographic and Health Survey 1998*, Institute of Population Studies, Hacettepe University, 1999.

[59] United Nations Country Team, *Common Country Assessment (CCA)*, Ankara, December 2000, p. 68.

[60] Annual report of the Special Rapporteur on the right to education, Katarina Tomaševski, E/CN.4/2001/52, paras. 75-77.

[61] Committee on the Rights of the Child, Initial report of Turkey, (CRC/C/51/Add.4) of 8 August 2000, para. 322.

[62] Hancioglu, A. et al., *The State of Children and Women in Turkey: Perspectives in the Context of the CRC and CEDAW,* UNICEF, Ankara, June 2000, p. 57.

[63] Turkish National Programme for the Adoption of the Acquis, text at europa.eu.int/comm/enlargement/turkey.

[64] *The United Nations Development Assistance Framework 2001-2005: Turkey*, Ankara, 2000, p. 28.

[65] Committee on the Rights of the Child, Initial report of Turkey (CRC/C/51/Add.4) of 8 August 2000, para. 186.

[66] Turkey's combined second and third periodic report under the Convention on the Elimination of All Forms of Discrimination against Women stated that "ninety-nine per cent of Turkey's population is Muslim", CEDAW/C/TUR/2-3 of 6 September 1996, p. 126.

[67] Dayiodlu, M., Analyses of the 1994 Child Labour Force Survey results in Turkey, ILO/IPEC, text at www.ilo.org.

[68] *Official Gazette* of 13 July 2001.

[69] Shelley, J., Turkish envoy denounces virginity tests, *European Voice*, 2 August-5 September 2001.

[70] In its NPAA, Turkey has committed itself to legal reform relating to paid maternity leave and parental leave, abolition of the notion of "head of household" and its legal consequences, equal social security rights for women and legal reform aimed at shifting the burden of proof in sex discrimination cases to the employer. Turkish National Programme for the Adoption of the Acquis, text at europa.eu.int/comm/enlargement/turkey.

[71] Article 174 of the Constitution specifies that "no provision of the Constitution shall be construed or interpreted as rendering unconstitutional the Reform Laws", listing, inter alia, the 1924 Act on the Unification of the Educational System and the 1934 Act on the Prohibition of the Wearing of Certain Garments.

[72] Stephen Kinzer has explained what he termed "the soft coup" (the abrupt end of a government led by Necmettin Erbakan of the Welfare Party, which was labelled as *Islamist*) through highlighting the military as "the repository of ultimate political power" (Kinzer, S., *Crescent and Star: Turkey between Two Worlds,* Farrar, Strauss and Giroux, 2002).

[73] The final part of the Constitution (entitled "Provisional Articles") explains the evolution of the National Security Council by reiterating its establishment on 12 December 1980, following the military coup, and singling out among its functions subsequent to the return of civilian government "the training of the youth and the conduct of religious affairs".

[74] Judgement of 16 January 1998, E. 1997/1 K. 1998/1.

[75] According to Edward McBride, "the education system has suffered extra strain because of restrictions imposed on the widespread and successful Islamic schools. Many Turks chose to send their children to these not out of strong conviction, but for an extra dose of sobriety and discipline. Instead of bringing the State schools up to scratch, the Government simply shut down the religious schools for younger pupils". "Atatürk's long shadow: A survey of Turkey", *The Economist*, 10 June 2000.

[76] Kristiansen, W., "Between the generals and the Islamists: Secular Turks in search of reform", *Le Monde diplomatique*, February 1999.

[77] Kramer, H., *A Changing Turkey: The Challenge to Europe and the United States*, Brookings Institution Press, Washington D.C., 2000, p. 30.

[78] Turkey's combined second and third periodic report under the Convention on the Elimination of All Forms of Discrimination against Women stated that "ninety-nine per cent of Turkey's population is Muslim", CEDAW/C/TUR/2-3 of 6 September 1996, p. 2.

[79] Interim report of the Special Rapporteur of the Commission on Human Rights on the elimination of all forms of intolerance and discrimination based on religion or belief: Mission to Turkey, A/55/280/Add.1.

[80] Human Rights Watch, *2001 World Report*, New York, December 2000, p. 326.

[81] Education International, *2001 Barometer on Human and Trade Union Rights in the Education Sector*, Brussels, May 2001, p. 213.

[82] "Atatürk's long shadow": A survey of Turkey, *The Economist*, 10 June 2000.

[83] International Labour Organization, Report of the Committee of Experts on the Application of Conventions and Recommendations, International Labour Conference, 89th session, 2001, Individual Observations concerning Convention No. 111, Discrimination (Employment and Occupation), 1958: Turkey, Report III (1A), para. 8.

[84] These data from the 1999 Household Labour Survey Results and the 1998 Turkey Health and Demographic Survey have been included in the United Nations Development Assistance Framework 2001-2005 (available at www.un.org.tr).

[85] Commission of the European Communities - 2001 Regular Report on Turkey's Progress towards Accession, Document SEC(2001) 1756 of 13 November 2001, p. 29.

[86] The Constitution has stipulated that "everyone bound to the Turkish State through the bond of citizenship is a Turk". The Ministry of Foreign Affairs has explained that "*Turkish citizenship* is an all embracing juridical concept" and "*Turkishness* is a legal status binding all citizens to the Turkish State" (www.mfa.gov.tr).

[87] Aksit, B. et al., *Turkey: Working Street Children in Three Metropolitan Cities: A Rapid Assessment*, Investigating the Worst Forms of Child Labour No. 7, IPEC/ILO, Geneva, November 2001, p. 28.

[88] Ministry of National Education, "National education at the beginning of 2001", Ankara, December 2000, mimeographed, p. 92.

[89] Turkey's recognition of minorities is still - 80 years later - based on the Lausanne Treaty of 1923. Turkey's initial report under the Convention on the Rights of the Child explained that, according to the Lausanne Treaty, the minorities in Turkey are Greeks, Armenians and Jews. It added that article 38 of the Lausanne Treaty states that "all inhabitants of Turkey shall be entitled to free exercise, whether in public or private, of any creed, religion or belief, the observance of which shall not be incompatible with public order and good morals". In accordance with article 40 of the Lausanne Treaty, non-Muslim minorities have equal rights to establish, manage and control at their own expense any charitable, religious or social institutions, any schools and other establishments for instruction and education with the right to use their own language and to exercise their own religion therein. Committee on the Rights of the Child, Initial report of Turkey (CRC/C/51/Add.4), of 8 August 2000, para. 560.

[90] Concluding observations of the Committee on the Rights of the Child: Turkey, (CRC/C/15/Add.152), adopted on 8 June 2001, para. 11.

[91] Ministry of National Education, *Lifelong Learning in Turkey*, Ankara, October 2001, p. 10.

[92] Human Rights Watch analysis of the 2001 regular report on Turkey, December 2001, (www.hrw.org).

[93] An initiative of the Directorate General on the Status and Problems of Women has resulted in an attractive publication that highlights the portrayal of women in textbooks. Another initiative has been launched by the History Foundation in cooperation with the Academy of Science and the Human Rights Foundation. Yet another has been initiated by the National Committee for Human Rights Education of Turkey. A further initiative has been started in the context of the Stability Pact, with a focus on history and geography textbooks in the neighbouring countries.

[94] Education for All Year 2000 Assessment: Turkey Report, Ministry of National Education, Ankara, 1999, text at www2.unesco.org/wef/countryreports/turkey.

[95] Ministry of National Education, "National education at the beginning of 2001", Ankara, December 2000, mimeographed, pp. 5-6.

[96] See E/CN.4/1999/49, paras. 72-73; E/CN.4/2001/52, paras. 46-47; E/CN.4/2002/60, paras. 67-69.

[97] In a report to the Sub-Commission, Ben Whitaker stated: "At least 1 million, and possibly well over half of the Armenian population, are reliably estimated to have been killed or death-marched by independent authorities and eyewitnesses. This is corroborated by reports in United States, German and British archives and of contemporary diplomats in the Ottoman Empire, including those of its ally Germany ... Though the successor Turkish Government helped to institute trials for a few of those responsible for the massacres at which they were found guilty, the present official Turkish contention is that genocide did not take place although there were many casualties and dispersals in the fighting, and that all the evidence to the contrary is forged." Sub-Commission on Prevention of Discrimination and Protection of Minorities, revised and updated report on the question of the prevention and punishment of the crime of genocide prepared by Mr. B. Whitaker, E/CN.4/Sub.2/1985/6 of 2 July 1985, para. 22.

[98] The Belgian Senate adopted a resolution on Armenian genocide in 1998, the French Parliament did so in January 2001. Akcam, T., "Le tabou du génocide arménien hante la société turque", *Le Monde diplomatique*, juillet 2001.

[99] See note 93.

[100] The previous formulation listed specific grounds upon which fundamental rights and freedoms may be restricted. The 2001 amendment revised it as follows: "Fundamental rights and freedoms may be restricted only on the basis of specific reasons listed in the relevant articles of the Constitution without prejudice to the values defined therein and only by law. These restrictions shall not conflict with the latter and the spirit of the Constitution and the requirements of the democratic social order and the secular republic and the principle of proportionality."

[101] The first part of the prohibition on the abuse of rights and freedoms was not changed in 2001. It stipulates that "none of the rights and freedoms embodied in the Constitution shall be exercised with the aim of violating the indivisible integrity of the State with its territory and nation".

[102] Saglam, F., General framework of the fundamental rights and freedoms under the 1982 Constitution, *Turkish Yearbook of Human Rights*, vol. 14, 1992, pp. 3-4.

[103] Sema Piskinsut's fate has been thus described: "The chief prosecutor in Ankara has accused her of abetting torture, because she would not name the thousands of prisoners she interviewed for a parliamentary report on abuse in jails, nor yet their alleged torturers. She lost the chairmanship of the parliamentary committee on torture last winter, after it said that members of the military police were involved in drug-trafficking and extortion rackets in the south-east." "Turkey and corruption: Rotten eggs unbroken", *The Economist*, 3 November 2001.

[104] Human Rights Foundation of Turkey, *Turkey Human Rights Report 1991: A Survey of Sample Cases*, HRFT Publications No. 1, Ankara, February 1992, p. 8.

[105] Report of the Working Group on Enforced or Involuntary Disappearances: Report on the visit to Turkey, E/CN.4/1999/62/Add.2 of 28 December 1998, para. 62.

[106] Commission on Human Rights, Report of the Special Rapporteur on torture: Visit to Turkey, E/CN.4/1999/61/Add.1 of 27 January 1999, para. 18.

[107] EGITIM-SEN has carried out a survey of corporal punishment in school and found that one in four teachers routinely beats pupils (www.egitimsen.org.tr).

[108] "Turkey's poor: Their lot gets worse", *The Economist*, 1 September 2001.

[109] Committee on the Rights of the Child, Initial report of Turkey (CRC/C/51/Add.4) of 8 August 2000, para. 108.

[110] Turkish National Programme for the Adoption of the Acquis, text at europa.eu.int/comm/enlargement/turkey.

[111] *Child Labour in Turkey 1999*, State Institute of Statistics/ILO, Ankara, December 2001.

[112] Commission of the European Communities - 2001 Regular Report on Turkey's Progress towards Accession, Document SEC(2001) 1756 of 13 November 2001, p. 38.

[113] Committee on the Rights of the Child, Initial report of Turkey (CRC/C/51/Add.4), of 8 August 2000, para. 26.

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